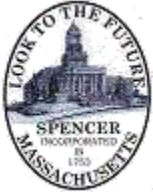


# Planning Board – Town of Spencer

## *Minutes*



Regular Planning Board Meeting  
Tuesday, February 2, 2010 at 7:00 PM  
McCourt Social Hall  
Memorial Town Hall

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The meeting was called to order at 7:00 p.m.

Planning Board Members Present: Chairman Fabio Carrera, Paul Tee, Paul Sauvageau, and Robert Ceppi.

Planning Board Member Absent: Shirley Shiver.

Staff present: Adam Gaudette, Town Planner.

### **New Business:**

**A. ANR – Hillside Baptist Church, c/o Pastor Ralph DiChiara, Southwesterly side of School Street, Spencer, creation of 1 new lot.** Mr. Gaudette explained that the Hillside Baptist Church owns Lot 7 which contain  $\pm 1.25$  acres. Mr. Donald Para from Donald Para Land Surveyor Incorporated, representing Pastor DiChiara; the applicant, had contacted Mr. Gaudette on the ANR application. The plan seeks to create one new lot from the existing  $\pm 1.25$  acres property which contains an existing structure. There is an existing sewer line that goes through the entire property. The new lot will have  $\pm 38,430$  sf and the existing lot will have  $\pm 16,500$  sf. Mr. Gaudette had suggested revising the plan and adding the detailed information (pre-existing structure, length of sewer line, and any wetlands) on the plan.

The revised plan is being presented to the Board tonight. Mr. Gaudette said the plan meets all the submittal requirements.

*Note: Pastor DiChiara was present this evening.*

At this time the Board reviewed the plan. Mr. Tee made a motion to accept the ANR plan as submitted tonight and to have Mr. Gaudette endorse the plan. Mr. Ceppi seconded the motion and the vote was 4-0 in favor.

## **New Business:**

### **A. Public Hearing – Westerman Estates, owned by Carl Westerman, c/o Lake**

**Construction.** Mr. Gaudette, as directed by the Planning Board, filed a petition to hold a public hearing to rescind the Definitive Plan Approval which was granted by the Board on March 14, 2005, and was amended on November 25, 2008. The Planning Board is seeking to rescind the project approvals due to the developer's failure to perform the work as conditionally approved.

**Mr. Carrera opened the hearing at 7:15 p.m.** Mr. Gaudette gave a brief summary of the previous hearing (11-25-08) in which the Board granted a one-year extension to October 31, 2009, with conditions that: (1) if the applicant fails to complete the construction of ways and the installation of municipal services by 10-31-09 it shall be grounds for the Planning Board to vote to rescind approval of this plan; and (2) the applicant is required to submit an application plan for a definitive plan modification to the Planning Board prior to 5-1-09, if not, this shall be grounds for the Planning Board to vote to rescind approval of this plan.

Note: Mr. Kevin Quinn from Quinn Engineering, and Mr. Vito Zenkus, who is the abutter and also works with the applicant on financing, were present representing the applicant.

Mr. Quinn said that he has been working with the applicant on the revised plan; however it did not progress in a timely fashion due to financing issues.

Mr. Ceppi inquired as to the financing issues and asked the applicant to clarify that.

Mr. Westerman said he is having a difficult time in keeping everything afloat. The real estate taxes (2008 and 2009) are delinquent and now are in Tax Title. He intends to do a revised plan, and has been working on a solution with capital lenders. He also provided the total tax amount owed to the Board.

The Board asked about the status on the special permit.

The Zoning Board of Appeals (ZBA) granted a special permit to the applicant in October, 2005, to allow for a construction of 126 multi-family units. In October of 2008, the applicant asked for an extension of time from the ZBA, which the Board approved and granted for two years to October, 2009. The time has passed and the special permit has expired.

At the previous Planning Board hearing, November 25, 2008, the Board suggested to consider doing a subdivision in the form of OSRD and provide the conceptual plan with the yield calculation to the Board. Westerman Estates does qualify for an OSRD plan; the property is located in the RR zoning district and contains minimum area of 60,000 sq ft. In addition, the OSRD projects are permitted by right, not by a special permit. The Board commented it would be more practical to do an OSRD as opposed to try to modify the existing plan. The applicant and Mr. Quinn said they would consider it.

At this time there was a discussion on the sewer system. In the beginning of 2008, the EPA and MADEP imposed a restriction limiting the amount of sewage entering the Town's wastewater treatment plan. The Sewer Commissioners determined they would review and act on a request, (on a sewer connection) on a case by case basis. At the time, the applicant's sewer reservation letter was due to expire in March of 2008. The Commissioners sent a letter informing the applicant about the restriction (by EPA and MADEP), and also stated that they would not renew the applicant's sewer reservation letter. In addition, the applicant did not provide the sewer connection plan (either doing it as individual or cluster system) to the Board of Health (BOH) for reviewing. Thus, the BOH could not determine which system is feasible for the subdivision. At the November 25, 2008, Planning Board hearing, the Board advised the applicant to resolve the issues with the Sewer Commission and BOH.

Mr. Westerman explained the survey on the sewer connection was done, but the sewer installation plan has yet to be finalized. Mr. Quinn said he had discussions with the Sewer Commission on the sewer connection plan, and has still yet to determine the type of system (whether an individual or cluster) because it depends on the revised plan. The revised plan could not move forward due to the financing issue as stated above. Mr. Westerman said he intends to continue with the plan, but he would need financing assistance from a lender or investor.

The Board advised that the environment has changed, and since it appears to be difficult to modify the existing plan to meet the requirements and etc; the applicant should consider starting from the beginning – resubmitting the application with a different approach such as OSRD.

Mr. Ceppi questioned the prospect of obtaining financing, and also the time line - when it would become available?

Mr. Westerman replied he has had productive discussions with investors/mortgage institutions. He is very close to owning the property outright. If the Board rescinded the definitive plan approval, this would have an impact on the value of the property. He needs more time to go through the financing process.

Mr. Gaudette made a clarification that the financing which has been the discussion tonight is for engineering costs (revision of existing plan). The financing for construction has yet to be pursued because there is not a feasible design and all permits have yet to be designed. If the applicant is very close to owning the property as stated, why not borrow money (equity loan) against the property.

As accordance with the Spencer Subdivision of Land, the extension may be granted by the Planning Board for an increment of one year for good cause. The Board is concerned that if they granted a one year extension, the same situation will repeat again next year – no progress in the project due to the financing dilemma.

At this time the Board reviewed the content of the decision granted on November 25, 2008 which Mr. Gaudette had read to the Board at the beginning of the hearing. The Board granted a one-year extension to Mr. Carl Westerman, Westerman Estates, to October 31, 2009 with the conditions specified that:

- (1) If the applicant fails to complete the construction of ways and the installation of municipal services by 10-31-09 shall be grounds for the Planning Board to vote to rescind approval of this plan;
- (2) The applicant is required to submit an application plan for a definitive plan modification to the Planning Board prior to 5-1-09, if not, this shall be grounds for the Planning Board to vote to rescind approval of this plan.

The Board noted that both conditions were not met as required in the decision (11-25-08).

With no further questions and comments from the Board, and no one in the public wished to speak at this time, Mr. Sauvageau then made a motion to close the hearing at 8:00 p.m. Mr. Tee seconded the motion and the vote was 4-0 in favor.

Mr. Ceppi made a motion to rescind the Definitive Plan Approval which was granted by the Board on March 14, 2005, and was amended on November 25, 2008, due to the developer's failure to perform the work as conditionally approved. Mr. Tee seconded the motion and the vote was 4-0 in favor.

Mr. Gaudette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail the copy of the decision along with the instructions to the applicant, and to all abutters.

**Other Business:**

**A. Request for Proposals – Planning and Zoning Boards Support Services.** Mr. Gaudette submitted the RFP to the Board which will be published in Telegram & Gazette on January 31, 2010.

**Approval of Minutes: For January 5, 2010**

Mr. Tee made a motion to accept the minutes for January 5, 2010. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

**Old Business: None**

**Other Discussion: None**

With no further discussion, Mr. Ceppi then made a motion to adjourn the meeting at 8:15 p.m. Mr. Sauvageau seconded the motion and the vote was 4-0 in favor.

Submitted By:

Approved By:

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Bea Meechan, Senior Clerk

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Fabio Carrera, Planning Board Chairman